



Minutes of the Licensing Sub-Committee

19 December 2013

-: Present :-

Councillors Addis, Bent and Ellery

42. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

43. Minutes

The Minutes of the meeting of the Sub-Committee held on 31 October 2013 were confirmed as a correct record and signed by the Chairman.

44. Incident with a Torbay Council Licensed Driver

The Licensing Sub-Committee considered a report and appendices concerning a Torbay Council Licensed Driver who physically assaulted another licensed driver by punching him to the face.

At the hearing the respondent was represented by a Legal Advisor. The victim and officers from the Licensing Department were present at the hearing to answer Members questions.

Decision:

That Mr Nasim's Torbay Hackney Carriage Driver's Licence be revoked on the grounds of any other reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, and that this revocation shall be with immediate effect, in accordance with Section 61("B) of the Local Government (Miscellaneous Provisions) Act 1976, as it appears to Members on hearing the facts of the case that it is appropriate to do so in the interests of public safety.

Reasons for Decision:

Having carefully considered all of the written and oral representations, Members resolved to revoke Mr Nasim's Hackney Carriage Driver's Licence for the following reasons:

Whilst it was accepted that there were elements of provocation earlier in the evening of the assault taking place and that there was an ongoing dispute between the two individuals, as submitted at the hearing by both Mr Nasim and the

victim, Mr Nicholson who is also a driver licensed by Torbay Council, Members found that Mr Nasim's conduct in physically assaulting another driver whilst on duty for that which he was licensed and doing so in front of members of the public who he was there to provide a service for fell well below the standard reasonably expected by a driver licensed by Torbay Council. .

Mr Nasim was observed by a witness to abandon his vehicle in the middle of the road and then, as captured on CCTV, to approach the victim's car in such a manner that it caught the attention and necessary presence of a Taxi Marshall who was placed to facilitate the orderly dispersion of taxi customers. Mr Nasim was then seen on the CCTV to walk away from the victim's vehicle but after a short distance, return and subsequently throw his right arm into the open driver's side window, physically assaulting the victim where he had remained throughout the incident. This resulted in Taxi Marshalls having to intervene in such a way that it was necessary for them to take Mr Nasim to the ground to restrain him, until the Police arrived. Members say this indicated Mr Nasim's state of mind which they found to be unacceptable and fell well below the standards reasonably expected of a driver licensed by Torbay Council.

The assault took place during the early hours of the morning in the middle of the night time economy and in front of members of the public who were queuing at the time for a taxi service. This Members found to be alarming, unacceptable and fell well below the standards reasonably expected of a driver licensed by Torbay Council

It was a concern to Members that Mr Nasim failed to notify the Licensing department of his assault on Mr Nicholson when he attended the Council's offices on the 4 November 2013. Whilst Members noted that this was not a scheduled appointment and that the attendance was brief due to the Officer having a prearranged meeting, Mr Nasim only chose to make reference to Mr Nicholson's conduct on that evening and not that of his own. Members found this to be intentionally misleading of what in their view was very serious incident.

Having admitted the offence and been issued with and accepted a caution, Mr Nasim failed to notify Torbay Council's Licensing Team of this caution, as required to do so in accordance with paragraph 6.4 of the Council's Hackney Carriage (Taxi) & Private Hire Policy 2013 (referred hereinafter as the 'Policy'). Mr Nasim's submission that he was not aware that he had to report it carried no weight, as the declaration when collecting and signing for their copy of the Policy states that they (licensed drivers) understand that it is their duty to familiarise themselves with all of the contents and that it shall be carried within the licensed vehicles at all times. Mr Nasim collected and signed for his copy of the Policy on the 20 March 2013. Members also noted the recommendation in the previous decision of the Licensing Sub-Committee on the 1 August 2013 which stated that Mr Nasim should read again the Policy. Members resolved that Mr Nasim had had sufficient opportunity to read the Policy and therefore it was reasonable that he should have been aware of this requirement.

Members had regard to the summary of complaints and outcomes held by Torbay Council's Licensing Team, as outlined in the report. In particular Members noted

the incident which led to Mr Nasim's previous appearance before a Licensing Sub-Committee on the 1 August 2013 and the decision of that Committee, as set out in Appendix 10 of the report. An appearance which resulted in Mr Nasim's driver's licence being suspended for a period of four weeks. It was concerning to Members that this further incident took place only eight weeks after the end of that suspension and that the suspension was for similar conduct. Members were also concerned that this further incident, in such a short time, demonstrated to them that a pattern of aggressive behaviour was developing which by his own admission; Mr Nasim had failed to address during his suspension, despite the recommendation to undertake an anger management course by the previous committee.

In concluding, Members resolved that they could no longer be satisfied that Mr Nasim remained a fit and proper person to hold a Torbay Council drivers licence. In coming to that decision, Members considered what if any conditions could be added to Mr Nasim's drivers licence or whether a further period of suspension would be appropriate. In light of these considerations and the previous conduct of Mr Nasim, Members felt that they were left with no alternative but to revoke his licence.

In revoking Mr Nasim's licence with immediate effect, as in accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, Members resolved that it appeared to them in the interest of public safety to do so, as Mr Nasim's continued aggressive conduct in their view placed others at a very real risk.

Chairman/woman